

March 15, 1979

Your Reference

Honorable James T. McIntyre, Jr.
Director
Office of Management and Budget

Attention: Assistant Director for
Legislative Reference

Dear Mr. McIntyre:

This is in response to your request for the views and recommendations of the Office of Personnel Management on the Department of State's draft bill "To amend Chapter 79 of title 5, United States Code, to authorize the head of each agency to establish a health care program which will provide for physical examinations and immunizations for employees and their dependents assigned overseas and for the payment of travel expenses and the cost of treatment of an illness or injury incurred by an employee or his dependents while assigned abroad under certain conditions."

This draft bill is part of the effort to implement the recommendations of the Inter-Agency Committee on Overseas Allowances and Benefits for U.S. Employees, which made a comprehensive review of such allowances and benefits for the purpose of assuring uniformity and equity of administration in the future.

All agencies are currently authorized, under chapter 79 of title 5, United States Code, to establish health service programs for employees, for emergency treatment of on-the-job illness or injury, preemployment and other examinations, and preventive programs relating to health. Foreign affairs agencies are authorized to establish much broader programs for their employees assigned abroad. The draft bill would authorize all agencies to establish programs similar to those for the foreign affairs agencies.

The draft bill would:

- Authorize physical examinations and immunizations at Government expense for employees and their dependents prior to their departure for assignment abroad; and periodic examinations and immunizations during and at the end of assignments abroad;

health benefits plan for hospitalization for treatment of an illness or injury incurred by employees or their dependents, which necessitates hospitalization as a consequence of unusual or hazardous circumstances at a post of duty outside the United States; and

- Permit transportation for payment of travel expenses when employees or dependents suffer illness or injury requiring medical care which is not available at the post outside the U.S.

We strongly support the principle of accessibility to quality medical care for all employees and dependents, and recognize that some overseas areas which present a greater health risk than exists in the United States are often precisely the areas where good medical care is not available. Therefore, we support the purposes of the draft bill. However, we object to some of its provisions.

Regulatory authority. A major deficiency of the bill, in our view, is that it would authorize the head of every agency to prescribe separate regulations under which medical care and transportation for medical care would be provided for the agency's employees. Such broad authority would inevitably exacerbate the inequities the draft bill is intended to correct. Employees of different agencies at the same post would still be treated differently, and morale problems would continue. We therefore urge that the draft bill be amended to provide that the President or his designee shall prescribe regulations to implement the provisions of the bill.

Job-related medical problems. There are a number of duty posts in foreign areas where, because of the general level of sanitation, climate or environment; employees and dependents are likely to experience a greater incidence of medical/health problems than would be encountered in the United States. Medical technology should be able either to identify potential problems at each area in advance, or to relate a specific problem to a local environmental health risk.

The language of the draft bill expresses recognition of the Government's obligation to pay for at least a part of the medical care that may be needed because of local environmental conditions. Yet, the bill proposes that the health benefits plan be the primary source of payment, with the Government paying expenses beyond those for which a health benefits plan would not pay where hospitalization is necessary or where illness is due to unusual or hazardous conditions of the post.

We do not believe that the Federal Employees Health Benefits (FEHB) program was intended to accommodate those unusual health problems that may occur because the Government sends employees and dependents to locations with a health risk potential significantly greater than in domestic areas. This has the effect of charging the cost of what are

essentially job-related health problems against a general health program that is intended to cover only non-job related problems. The potential effect of this bill would be to place the responsibility for FEHB for all employees and for the Government.

We recommend that the following provisions be incorporated into the draft bill:

1. That the Department of Health, Education, and Welfare, or a designee, be required to identify those posts where there exist unusual health risks, i.e., those not likely to be found in the United States, and the probable medical problems that could arise as a result of those factors. This approach would provide an independent review, and a measure of objectivity about the conditions at the various duty posts.
2. That any medical/health problems experienced by employees and dependents as a result of duty at those posts identified by HEW be considered as job-related. This would place those health problems within the framework of the Federal workers' compensation program under chapter 81 of title 5, United States Code. This would mean that all necessary treatment, medication, and the like would be fully paid by the Government.

While we do not, of course, administer the worker's compensation program, it appears true that these unusual health conditions as they may affect employees are already covered; dependents are not now covered. Thus, the proposed bill should be amended to provide coverage for dependents under the workers' compensation program, but only for those health problems experienced as a result of the unusual conditions which exist at some overseas posts, as identified by HEW.

If any clarification is needed regarding coverage under the workers' compensation program for employees, then chapter 81 of title 5 should be amended to provide the necessary coverage. It is undesirable to have two statutes when an existing statute can, with necessary modification, serve the same purpose.

The Department of Labor, which administers the Federal workers' compensation program, should be given an opportunity to comment on the above recommendations.

Non-job related medical problems. We fully support the bill's authorization for agencies to establish appropriate health care facilities to assure that employees and dependents have access to adequate health care for both job-related and non-job related health problems. Use of the authority, however, should be restricted to those locations where adequate local private health facilities and/or personnel are not available and where the number of employees and dependents makes it economically feasible to establish such facilities. Provision should be made for reasonable fees to be charged employees availing themselves of such facilities.

Payment of the costs of non-job related problems should be the personal responsibility of the employee to the same extent as in the United States.

Transportation for medical care. The draft bill would authorize such transportation or reimbursement for expenses of transportation for medical care when posts outside the United States are unusually isolated or remote. We urge that the provisions be extended to include some domestic and non-foreign areas. We believe this to be so necessary that we have been considering including it in our 1980 legislative program; however, we believe that this draft bill is a more appropriate vehicle.

There are many posts in Alaska, for example, where there are no health facilities at all or those that are available cannot provide more than routine or emergency treatment. Even within the contiguous 48 States, some agencies, such as the Forest Service, have duty posts where the only access is by light aircraft. Dependents are permitted at these posts and there are times when medical evacuation is needed. Employees and dependents should not have to pay the often extraordinary transportation and subsistence costs in order to get to a location where the proper medical care is available.

Thus, we believe this section of the bill should be amended to provide for transportation to the closest competent medical facility domestically to the same extent that transportation would be provided in a foreign area, i.e., where there is no qualified person or facility at or near the post to provide the necessary treatment.

We believe that the term "transportation" should be defined to include, in addition to transporting people, payment for shipping prescription medication not available locally, and medical devices and specialized equipment (artificial limbs, braces, and the like) that may need replacement or repair.

Finally, we suggest that transportation be provided for emergency dental care and treatment if it is not available at the post.

Repeal of other statutes

The State Department's letter of transmittal cites the fact that there is a patchwork of legislative authorities that in total provide for inequitable treatment of employees and dependents of some agencies. The draft bill however, would continue the preferential treatment for Foreign Service and CIA employees. We believe that these provisions should be repealed as well. They provide for fully paid medical care and treatment for Foreign Service and CIA employees regardless of whether quality treatment is available locally or whether the illness is job-related or not. The basic purpose of the Interagency Committee's work was to develop a rational approach which would insure equitable

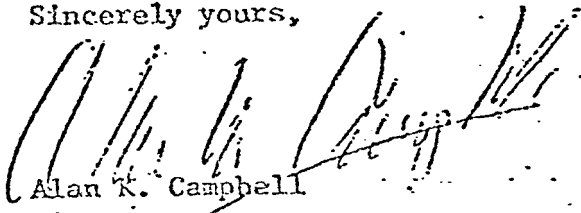
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treatment for all employees overseas in similar circumstances. Failure to repeal those provisions will not meet that desirable objective. Rather, there will continue to be significantly different treatment between employees of the foreign affairs agencies and CIA and employees of other agencies.

The enactment of the provisions for the Foreign Service and the CIA preceded the enactment of the Federal Employees Health Benefits program. Since enactment of that program, there is no justifiable basis for providing fully subsidized medical care and treatment simply because an employee and dependents are stationed in a foreign country, when many foreign countries have excellent health facilities where treatment would be covered under FEHB plans. We believe that repeal of these statutes is crucial to the accomplishment of the purpose of the draft bill.

You also asked that we indicate any cost of this draft bill for the Office of Personnel Management. We have no employees in areas that would be covered by the bill, so this agency would effect no saving.

Sincerely yours,



Alan K. Campbell
Director